

## NOTICE TO SECOND CIRCUIT LITIGANTS

Effective July 6, 2004, the United States Court of Appeals will implement the following new procedures to deal more efficiently with appeals pending before the Court:

- **Conferences in counseled immigration appeals will no longer be automatic.** The Court will issue briefing schedules in many petitions for review of immigration agency orders after the agency record is filed. If a party thinks that a conference would be beneficial, that party will be permitted to request a conference. Any request should be made by FAX to the Civil Appeals Management Program Office, 212-857-8837. All requests must be accompanied by a copy of the Board of Immigration Appeals and the Immigration Judge decisions. The Court will make every effort to schedule a conference within 14 days after receiving the request for mediation. Conferences will be conducted by Court attorneys through its CAMP program or by outside pro bono attorneys whom the Court has so designated. **A request for mediation will not extend the briefing schedule.**
- **In all appeals, the Court will generally grant a party one 30-day extension of time to file a brief upon filing an appropriate motion.** Absent a need for expedited hearing of the appeal or opposition by a party, such an extension will be granted administratively by the Clerk or the Clerk's designee. Any opposed motion will be referred to a judge of the Court.
- **Subsequent requests for additional time, or any first request seeking an extension exceeding 30 days, will be decided by a judge of the Court. Such request shall be made by filing an appropriate motion, accompanied by an affidavit showing good cause and will not be granted absent extraordinary circumstances.** Extraordinary circumstances must be established by stating with particularity facts that on their face would make it exceedingly difficult for any reasonable attorney to meet the due date, not including time constraints imposed by other legal work. If an extension is said to be necessary because a case involves complex issues, the affidavit must describe the factual and legal issues in sufficient detail to distinguish the case from the great majority of counseled cases that constitute the work of the court.
- The unavailability of the record from the court below will be deemed an extraordinary circumstance. Attorneys seeking an additional extension of time because of the unavailability of the record, however, must inform the Court of the steps taken to obtain the record. In addition, if a reporter has failed to provide a transcript of the lower court's proceedings, the party seeking a second extension of time to file a brief, should attach to that request a statement from the court reporter noting when the transcript will likely be available.
- **The date on which a brief is due is not altered or tolled by the filing of a motion for extension of the scheduling order.**

Please direct comments/suggestions to Roseann B. MacKechne at 212-857-8585 or to Fernando Galindo at 212-857-8662.